

**EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. John Hemmer on 10/23/2008.

The application has been amended as follows:

Claim 1, Lines 2-3: "a wall" has been replaced with --upper and lower walls, respectively--.

Claim 7, Line 13: "a" has been changed to --the--.

Claims 33 and 34 have been cancelled.

The following changes to the drawings have been approved by the examiner and agreed upon by applicant: Proper cross-hatching in Figures 5-6e, 7b-7d, 9a and 10b must be included. In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

The following is an examiner's statement of reasons for allowance:

The primary reason for the allowance of the claims is that the prior art of record neither teaches nor suggests the inclusion of the limitations of "a plurality of pickets... each picket passing through a first and second aperture pair, thereby passing through the rail and ending outside of the rail...a portion of each picket...being compressed partially radially inwardly in first and second converging directions thereby expanding the portion of each picket located inside of the rail partially radially outwardly within the rail in third and fourth diverging directions" (Claim 1, Lines 4-11) and "an internal wall... having a plurality of holding apertures, wherein each picket...passes through and is received by a corresponding holding aperture...each picket being compressed partially radially inwardly in first and second converging directions thereby expanding the portion of each picket located inside of the rail partially radially outwardly within the rail in third and fourth diverging directions such that the portion of the picket is held between the respective entry aperture and the corresponding holding aperture" (Claim 7, Lines 5-15). The closest prior art of record, Lichti, Bush, Souza Jr., Summers and Peach et al taken as a whole, disclose a fence system significantly as claimed, but does not provide any teaching, suggestion, or motivation to modify the prior art to have inwardly compressed first and second portions and outwardly expanded third and fourth portions. There is no cogent reasoning that is independent of hindsight that would have led one of ordinary skill in the art at the time the invention was made to modify the prior art to obtain the applicant's invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA T. KENNEDY whose telephone number is (571)272-8297. The examiner can normally be reached on M-F: 7am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joshua T. Kennedy/  
Examiner, Art Unit 3679  
10/23/2008

/Daniel P. Stodola/  
Supervisory Patent Examiner, Art Unit 3679